

# How to Obtain a Protective Order



Provided by the Administrative Office of the Courts

# Protective Orders

The Administrative Office of the Courts is pleased to provide this guide on how to obtain civil orders for those seeking protection from domestic violence and abuse, dating violence and abuse, stalking and sexual assault.

Please note that the **petitioner** is the person who files a petition for a protective order. The **respondent** is the person who allegedly committed the abuse.

## Why file for an EPO or IPO?

To be eligible for an EPO or an IPO, the respondent must have either:

- Physically injured or assaulted you.
- Sexually abused or sexually assaulted you.
- Threatened to physically injure or assault you.
- Stalked you.
- Done something to place you in fear of imminent physical injury, serious physical injury, or sexual abuse or assault.

## Types of Protective Orders

The court may order protection for a victim of domestic violence, dating violence and abuse, stalking and/or sexual assault. Protective order cases are different from criminal cases. Protective orders are intended to prevent future acts of violence or abuse. A criminal case is usually handled by the county attorney, who prosecutes the respondent for acts of violence or abuse that have already taken place.

**Temporary Protective Orders.** The court may issue an emergency protective order (EPO) in domestic violence cases or a temporary interpersonal protective order (TIPO) in dating violence and stalking/sexual assault cases. These are short-term orders intended to stop violence and abuse by placing restrictions on the respondent's actions until a hearing may be held by the court, usually within 14 days.

**Long-Term Protective Orders.** Domestic violence orders (DVO) and interpersonal protective orders (IPO) can last up to three years. These orders are intended to stop violence and abuse by placing restrictions on a respondent after a court hearing.

## **Who can obtain a protective order?**

In order to get a protective order, the parties must have a qualifying relationship. Qualifying relationships include:

- Family members. This includes a spouse, former spouse, a parent, a child, a stepchild, a grandparent, a grandchild, or any other person living in the same household as a child if the child is the alleged victim.
- Members of an unmarried couple. This includes members of an unmarried couple who allegedly have a child in common, any children of that couple, or members of an unmarried couple who are living together or have formerly lived together.
- A dating relationship between two individuals who have or have had a relationship of a romantic or intimate nature.
- A victim of stalking or sexual assault.

## **Who can be protected?**

- You can request protection for yourself, your children and/or other persons who you believe may need protection.
- If you are an adult and believe a child needs protection but you do not, you may file a petition on behalf of that child.
- If you are under the age of 18, an adult may file a petition for you.

## **Where do I file a petition for a protective order?**

To file a petition for a protective order, visit the Office of Circuit Court Clerk in your county of residence or in the county where you are currently residing if you left your home to get away from the abuse.

There is an Office of Circuit Court Clerk in every Kentucky county. For contact information for all 120 Offices of Circuit Court Clerk, visit <http://courts.ky.gov/courts/clerks> and select a county.

- You can obtain a protective order 24 hours a day.
- There are no fees or costs for filing a petition.
- After business hours, you should contact your local law enforcement for assistance in obtaining a protective order.

## **How do I fill out the petition?**

You will be asked to provide information about you and the respondent. It is important to provide as much information about the respondent as possible – such as date of birth, Social Security number and address – so that he or she may be served with any order that may be issued. Your address and date of birth will be kept confidential.

You will be asked to list any children you and the respondent have and you can request that these children be protected by any order that may be issued.

Under “Motion for Relief,” you can request the protection that you believe is appropriate for your situation. You will be asked to swear that the information you provided is true.

## **What happens after the petition is filed?**

The petition will be immediately submitted to a judge or a trial commissioner for review. If a judge issues an EPO, TIPO or a summons, a hearing will be scheduled within 14 days to determine whether a long-term order is needed. You will receive something that shows you the date and time for your hearing. If you do not know when your hearing is scheduled, check with the Office of Circuit Court Clerk.

Law enforcement will then attempt to serve the protective order or summons on the respondent. A protective order does not go into effect until the respondent is served with a copy of the order or is notified about the protective order by law enforcement. You can contact the “agency assigned service” (listed on the order) to find out if the respondent has been served.

A protective order (EPO/TIPO) is effective until the court hearing is held, usually within 14 days. If the respondent has not been served with the EPO/TIPO, the order will be continued until service is made (up to six months) or until the order is withdrawn by the court. Even if you believe you no longer need protection, you will need to appear at the scheduled court hearing.

Only a judge can grant a new court date or change the order. Depending on the circumstances of the case, the court may excuse you from future court appearances until the respondent is served. If the EPO/TIPO remains unserved for up to six months, you will receive a notice from the court at your last known address letting you know that the order is about to expire and that you will need to come to the Office of Circuit Court Clerk to fill out a new petition in order to continue the case.

## What should you bring to the hearing?

This may be the only hearing in the case, so you will need to bring any witnesses you may have and any documents that may be evidence of what has happened, such as police reports, photos and medical records. The circuit court clerk can give you forms for subpoenas for any witnesses. If you are asking for child support, bring pay stubs and tax returns if possible. All of this information will be made part of the court record.

## What can happen at the hearing?

At a full hearing, the court hears testimony from you, the respondent and any other witnesses. The court may dismiss the case or issue a DVO or IPO (domestic violence order or interpersonal protective order), which may include any of the following terms:

1. Order the respondent to have no contact with you or other persons except as directed by the judge.
2. Order the respondent not to go near a specified residence, school or place of employment of the petitioner.

**NOTE:** This must be requested on the protective order petition. Any address information provided **is not confidential** and will be available to the respondent.

3. Order the respondent not to abuse or threaten you.
4. Order the respondent not to damage or dispose of your property.
5. Order the respondent to leave your residence.
6. Grant temporary custody of children.
7. Grant child support.
8. Order counseling.
9. Anything else needed to eliminate future acts of violence.

You should carefully read all orders you receive. If you have questions about what your order means, contact your attorney (if you have one), a local domestic violence program or a victim's advocate.

## **What if the respondent violates the protective order?**

A protective order can be enforced in any Kentucky county. Other states may enforce the order, but it should be registered in any state where you move to or plan to stay for an extended period of time.

If the respondent violates the protective order, your options may include:

- Calling the police, who may be able to arrest the respondent.
- Going back to the court that issued the protective order to ask that the respondent be held in contempt for violating the order.
- Going to the county attorney's office to see if the respondent can be charged with a crime for violating the protective order.

**GPS Monitoring.** If your county has a global positioning system (GPS) monitoring service available, you may be able to ask the court to order the respondent to wear a GPS monitoring device. You may do this by filing a motion form with the court. You can request the form from the Office of Circuit Court Clerk.

The judge will decide whether there has been a substantial violation by the respondent that involved actual or threatened harm to you, your family or your property. If the judge orders the respondent to wear a monitoring device, the respondent will be ordered to pay for the costs of the monitoring and may be required to wear the device for as long as the protective order is in place.

If you later believe it is no longer necessary, you can request that the GPS monitoring system requirement be dropped.

## **How do I change or extend a protective order?**

If you need to change the terms of a protective order, you must file a motion to amend with the Office of Circuit Court Clerk in the county where you obtained your protective order. Either party can file a motion to amend an order. A judge will then review the motion and make a decision. Only the judge can change some or all of the terms of an order.

If you wish to have the protective order extended past its expiration date, you must file a motion with the court that gives your reason(s) for the request. The motion must be filed before the order expires.

If the respondent has been ordered to wear a GPS monitoring device, you can ask for that requirement to be extended as well.





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